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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/187,472	11/06/1998	ROGER A. ALLINGTON	17990-1-1	3109

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EXAMINER
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BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

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DATE MAILED: 04/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

VIF-26

# Office Action Summary

Application No.

09/187,472

Applicant(s)

ALLINGTON ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 56-58, 62-69, 71-78, 80 and 81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 56-58, 62-69, 71-78, 80 and 81 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1 recites the limitation "a relatively minor portion". It is not clear what is considered "relatively major", for instance 70%? 30%?

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 62-63 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi [Pat. No. 4,849,625] in view of de Vries [Pat. No. 4,284,609].

Camerini Porzi teaches a method of roasting coffee beans comprising a photoemitter element (Figure 1, 1), a photodetector for monitoring the color of the beans during roasting (Figure 1, 2), a colorimeter which produces an output signal equivalent to desired color (Figure 1, 7; column 4, line 17), and a comparator which ends the roasting when the signals from the colorimeter and photodetector are equal (column 4, lines 22-26). Camerini Porzi does not teach removing pollutants from the exhaust air, cooling the exhaust air to 115°F or less, and emitting the exhaust air into a room. De Vries teaches a method cleaning exhaust air from a coffee roaster (column 1, line 28) by removing pollutants from the exhaust air (column 6, line 11) and cooling the exhaust air to 110°F (column 8, line 5). It would have been obvious to one of ordinary skill in the art to incorporate the exhaust cleaning of de Vries into the invention of Camerini Porzi since both are directed to methods of roasting coffee, since Camerini Porzi would naturally require a means for exhausting air, and since the cleaning and cooling of de Vries would have provided an efficient and convenient means of treating the exhaust air without polluting the surrounding environment with excess heat and particulates.

Although not specifically recited, it would have been obvious to one of ordinary skill in the art that the desired color or darkness level of Camerini Porzi would inherently possess a desired aroma since both are properties of fully roasted coffee beans.

Although not specifically mentioned, it would have been obvious to one of ordinary skill in the art to conduct the coffee roasting of Camerini Porzi, in view of de Vries, within a

room such as a supermarket and thus exhaust the air into that room since this was commonly done and since the treated exhaust air of de Vries would not pollute and contaminate the room.

1. Claims 1-3, 9, 11, 64, 71-72, and 77-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of de Vries as applied above, and further in view of WO 96/35335A1.

Camerini Porzi and de Vries teach the above mentioned concepts. Camerini Porzi and de Vries do not teach reheating and recirculating a major portion of the air, discharging a minor portion of the air, and monitoring a second parameter such the air temperature. WO 96/35335A1 teaches a method of roasting coffee beans by filtering the heated air (Figure 1, 14), reheating and recirculating a major portion while discharging a minor portion (column 6, lines 8-12), and monitoring the air temperature (column 4, lines 34-59). It would have been obvious to one of ordinary skill in the art to incorporate the roasting exhaust methods of WO 96/35335A1 into the invention of Camerini Porzi, in view of de Vries, since all are directed to methods of roasting coffee, since de Vries already teaches cleaning the exhaust, since recycling a major portion of the air also improves air quality (column 4, lines 41-50) and further reduces the amount of particulates released into the surrounding environment, since Camerini Porzi further teaches monitoring the amount of heat applied during roasting (column 2, line 45), and since monitoring and adjusting the air temperature acts to better control the roasting conditions (column 4, lines 34-59).

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2. Claims 65-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of de Vries as applied above, and further in view of Grubbs et al [Pat. No. 4,110,485].

Camerini Porzi and de Vries teach the above mentioned concepts, Camerini Porzi also teaches an air gap between the window and the photoemitters (Figure 1, #1 & 4).

Camerini Porzi and de Vries do not teach the use of a laser beam with a wavelength of 600-800 nm. Grubbs et al teach a method of evaluating coffee bean color comprising the use of a helium-neon gas laser with a wavelength of 632.8nm (column 7, lines 41-46). It would have been obvious to one of ordinary skill in the art to incorporate the laser of Grubbs et al into the invention of Camerini Porzi since both are directed to the color evaluation of coffee beans by use of light beams and since Grubbs et al teach that the laser light source has only a single wavelength and therefor is simpler to calibrate (column 8, lines 30-36).

6. Claims 4-6 and 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi, de Vries, and WO 96/35335A1 as applied above, in view of Grubbs et al.

Camerini Porzi, de Vries, WO 96/35335A1, and Grubbs et al teach the above mentioned concepts and are combined for the above mentioned reasons and also since they are all directed to methods of roasting coffee beans.

7. Claims 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of de Vries as applied above, and further in view of Gell Jr [Pat. No. 4,494,314].

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Camerini Porzi and de Vries teach the above mentioned concepts. Camerini Porzi and de Vries do not teach a multiplicity of different product types. Gell Jr teaches a coffee roaster with settings for multiple types of beans and roasting levels (column 4, line 61 to column 5, line 19). It would have been obvious to one of ordinary skill in the art to incorporate the multiple setting and roasting levels of Gell Jr into the invention of Camerini Porzi since Gell Jr teaches that coffee beans come in different sizes and densities which can effect the roasting time (column 5, line 10) and since Camerini Porzi is primarily directed to controlling the roasting time of coffee beans by monitoring their color (column 1, lines 8-16).

8. Claims 7-8 and 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi, de Vries, and WO 96/35335A1 as applied above, and further in view of Gell Jr.

Camerini Porzi, de Vries, WO 96/35335A1, and Gell Jr teach the above mentioned concepts. Camerini Porzi, de Vries, WO 96/35335A1, and Gell Jr are combined for the above mentioned reasons and since they are all directed to methods of roasting.

3. Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0040823 in view of de Vries.

EP 0040823 teach a method for controlling a coffee roaster comprising roasting a sample of coffee beans to provide a degree of doneness (Figure 1, P'), a color measuring devices which respond to the color of roasting coffee beans and sample (Figure 1, A & F), a comparison circuit (Figure 1, 14), and ending roasting when the two

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signals correspond (paragraphs 2-3). EP 0040823 does not teach removing pollutants from the exhaust air, cooling the exhaust air to 115°F or less, and emitting the exhaust air into a room. De Vries teaches a method cleaning exhaust air from a coffee roaster (column 1, line 28) by removing pollutants from the exhaust air (column 6, line 11) and cooling the exhaust air to 110°F (column 8, line 5). It would have been obvious to one of ordinary skill in the art to incorporate the exhaust cleaning of de Vries into the invention of EP 0040823 since both are directed to methods of roasting coffee, since EP 0040823 would naturally require a means for exhausting air, and since the cleaning and cooling of de Vries would have provided an efficient and convenient means of treating the exhaust air without polluting the surrounding environment with excess heat and particulates. Although not specifically recited, it would have been obvious to one of ordinary skill in the art that the desired color or darkness level of EP 0040823 would inherently possess a desired aroma since both are properties of fully roasted coffee beans.

9. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of de Vries, WO 96/35335A1, Grubbs et al as applied above, and further in view of Scher et al [Pat. No. 5,062,066].

Camerini Porzi, WO 96/35335A1, Grubbs et al, and de Vries teach the above mentioned concepts. Camerini Porzi, WO 96/35335A1, Grubbs et al, and de Vries do not teach controlling multiple roasting machines at different locations. Scher et al teach a control system for roasting comprising multiple roasters (column 3, line 15) and monitoring the color of the product (column 5, line 16). It would have been obvious to



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one of ordinary skill in the art to control multiple roasters as taught by Scher et al with the invention of Camerini Porzi since both are directed to methods of roasting, since the multiple roasters of Scher et al would have created more diversified products and reduced the waiting time, and since Camerini Porzi teaches a remote processing unit which is located a distance away from the roaster (column 3, line 63). It would have been obvious to one of ordinary skill in the art to combine the teachings of Camerini Porzi, WO 96/35335A1, Grubbs et al, de Vries, and Scher et al since they are all directed to methods of roasting coffee.

10. Claims 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of WO 96/35335A1, Grubbs et al, Scher et al, and de Vries as applied to claim 56 above, and further in view of Helbling [Pat. No. 5,158,793]. Camerini Porzi, WO 96/35335A1, Grubbs et al, de Vries, and Scher et al teach the above mentioned concepts. Camerini Porzi, WO 96/35335A1, Grubbs et al, de Vries, and Scher et al do not teach a step of keeping an inventory and generating a low inventory signal. Helbling teaches a method of making coffee including a weight sensor which detects when a station is empty and generates an "empty" signal (column 7, line 54). It would have been obvious to one of ordinary skill in the art to incorporate the weight control system of Helbling into the invention of Camerini Porzi since both are directed to methods of coffee production and since this would be an effective means of maintaining a constant rate of roasting in Camerini Porzi by eliminating any stoppages in the process due to an empty supply bin. It would have been obvious to one of ordinary skill in the art to combine the teachings of Camerini Porzi, WO 96/35335A1,

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Grubbs et al, Scher et al, de Vries, and Helbling since they are all directed to methods of roasting coffee.

11. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of WO 96/35335A1, Grubbs et al, Scher et al, and de Vries as applied to claim 56 above, and further in view of Gell Jr.

Camerini Porzi, WO 96/35335A1, Grubbs et al, Scher et al, de Vries, and Gell Jr teach the above mentioned concepts. Camerini Porzi, WO 96/35335A1, Grubbs et al, Scher et al, de Vries, and Gell Jr are combined for the above mentioned reasons and also since they are all directed to methods of roasting coffee.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-9, 11, 56-58, 62-69, 71-78, and 80-81 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker  
April 17, 2002

  
**KEITH HENDRICKS**  
**PRIMARY EXAMINER**